

AN ORDINANCE AMENDING TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE, THE BUILDING AND CONSTRUCTION ORDINANCE, BY AMENDING SECTION 19.07.042 RELATING TO WATER CONSERVATION IN THE NIPOMO MESA WATER CONSERVATION AREA AND ADOPTING FINDINGS OF FACTS TO SUPPORT THE IMPOSITION OF REQUIREMENTS GREATER THAN ESTABLISHED BY OR PURSUANT TO THE CALIFORNIA BUILDING STANDARDS CODE

WHEREAS, California Health and Safety Code, Sections 18941.5 and 17958.5 authorizes the Board of Supervisors to make modifications or changes to the California Building Standards Code, including adopting more restrictive building standards, as it determines are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, California Health and Safety Code Section 17958.7 requires the Board of Supervisors to make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, the Board of Supervisors finds that each of the changes or modifications to measures referred to herein are reasonably necessary because of local climatic, geological, or topographical conditions in the area encompassed by the boundaries of the County of San Luis Obispo, and the Board of Supervisors further finds that the following findings support the local necessity for the changes or modifications:

FINDING 1

Climatic: Climatic conditions in this jurisdiction have led to groundwater basin overdraft conditions that must be addressed through installation of lower water using fixtures such as toilets. Uneven rainfall patterns and dry summers contribute to lowering groundwater levels.

WHEREAS, the Board of Supervisors determines that the provisions of the State Building Standards Code are hereby modified, changed and amended, as provided for in this ordinance, and as previously provided in ordinance number 3139 (Chapters 19.01, 19.04, 19.40, and 19.80 and Sections 19.20.002 through 19.20.090, 19.20.150 through 19.20.380, 19.20.126 and 19.90.010 of the San Luis Obispo County Code are hereby repealed and replaced by new Chapters 19.01, 19.02, 19.03, 19.04, 19.05, 19.06, 19.07, 19.40, 19.80, and 19.85 and new Sections 19.20.126 and 19.90.010) based upon the foregoing findings and that said Board takes said action because of the public interest in protecting life and preserving public safety and property.

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 19.07.042 of the Construction Ordinance, Title 19 of the San Luis Obispo County Code, is hereby amended by revising subsection b as follows:

19.07.042 - Water Conservation Provisions. The requirements in this section shall apply to all new installations and, where specifically required, to existing structures.

- a. **Water fixtures.** Water fixtures shall comply with current requirements of the California Energy Commission and Department of Water Resources.
- b. **Existing Structures.** In existing buildings, replacement water fixtures shall conform to the above requirements. In addition, all fixtures in an existing building shall be brought into conformance with these requirements when an alteration of that building meets either of the following criteria, except in the Nipomo Mesa Water Conservation Area and the Los Osos Groundwater Basin as described in Subsections d and e.
 - (1) A bathroom is added;
 - (2) The floor areas is increased by twenty per cent (20%) or more
- c. **Other requirements:**
 - (1) Spas, hot tubs, fountains and other decorative bodies of water shall be equipped with recirculating systems and shall be designed to operate without a continuous supply of water.
 - (2) Vehicle wash facilities shall have approved water reclamation systems which provide for reuse of a minimum of 50 percent of the wash water. Hoses, pipes, and faucets for manual application of water to vehicles at such facilities shall be equipped with positive shut-off valves designed to interrupt the flow of water in the absence of operator applied pressure.
 - (3) Water supply piping shall be installed so that each dwelling unit may be served by a separate water meter.

SECTION 2. Section 19.07.042 of the Construction Ordinance, Title 19 of the San Luis Obispo County Code, is hereby amended by amending subsection d as follows:

- d. **Nipomo Mesa Water Conservation Area:** In addition to the requirements in sections a, b and c above, the requirements in paragraphs (1) through (6) below shall apply to all new development that uses water from the Nipomo Mesa Water Conservation Area shown in Figure 20-2.

(1) The developer of any new structure that uses water from the Nipomo Mesa Water Conservation Area shall install plumbing fixtures that meet the following requirements:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.5 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than 2.0 gallons per minute;
- iv. Hot water circulation systems for master bathrooms and kitchens if the furthest plumbing fixture unit in these rooms is greater than twenty (20) pipe - feet from the hot water heater;
- v. Commercial structures shall use waterless urinals;
- vi. New residences shall be plumbed for grey-water systems pursuant to Chapter 16 of the Uniform Plumbing Code (Greywater Systems).

(2) Any remodel of an existing structure or addition to an existing structure that uses water from the Nipomo Mesa Water Conservation Area, that requires a construction permit pursuant to this Title, that is valued at \$20,000 or more as determined by the Building Division of the Department of Planning and Building, and that is not solely for roof replacement or electrical work to bring the structure into compliance with this Title, shall require the replacement of plumbing fixtures in the entire structure with the following types of plumbing fixtures:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.5 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than 2.0 gallons per minute;
- iv. All urinals in commercial structures shall be replaced with waterless urinals.

Toilets rated at no more than 1.6 gallons per flush are exempt from this requirement and do not have to be replaced.

(3) Prior to issuance of a construction permit for a new structure with plumbing fixtures that use water from the Nipomo Mesa Water Conservation Area, the developer of such new structure shall provide evidence to the Department of Planning and Building that the plumbing fixtures in five (5) existing structures within the Nipomo Mesa Water Conservation Area with toilets rated at 3.5 or

more gallons per flush have been retrofitted by replacing all toilets, showerheads and faucet aerators as follows:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.5 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than 2.0 gallons per minute;
- iv. All urinals in commercial structures shall be replaced with waterless urinals.
- v. Owners of existing structures that are retrofitted under this program shall agree to allow their water purveyors to release water use data to the Department of Planning and Building in order to gauge the effectiveness of the program to the extent allowed by California law.

Upon retrofitting of the required number of plumbing fixtures, the developer shall submit evidence of the completed retrofits to the Department of Planning and Building. This evidence shall consist of a Retrofit Verification Declaration completed and executed by a licensed plumber and/or contractor.

Upon submittal to the Department of Planning and Building of a completed and executed Retrofit Verification Declaration accompanied by the required fee, the developer shall be issued a Water Conservation Certificate from the Department of Planning and Building. Once the Water Conservation Certificate is issued, a construction permit may be issued.

- (4) In lieu of retrofitting plumbing fixtures in existing structures as specified in subsection d(3), a developer of a new structure may instead pay to the Nipomo Community Services District (hereinafter referred to as the "District") the amount of \$750.00 per toilet to be installed in the new structure. Prior to issuance of a building permit for the new structure specified in subsection d(3), a receipt for the payment to the District shall be submitted to the Department of Planning and Building.
- (5) The District shall use the in lieu fees specified in subsection d(4) for programs that result in measurable water conservation in the Nipomo Mesa Water Conservation Area, including but not limited to the following:
 - i. Subsidize toilet/showerhead retrofits.
 - ii. Subsidize interior water audits.
 - iii. Subsidize exterior water audits.
 - iv. Subsidize irrigation system changes that will save water pursuant to the results of a District-sponsored water audit.

- v. Subsidize removal of high water-using turf and landscape materials and replacement with low water-using landscape material.
- vi. Provide repairs to irrigation systems at a cost not to exceed \$100.00 per parcel.

Fees collected from new development located within the District boundaries shall only be used for water conservation projects within the District. Fees collected from new development that is located outside of the District boundaries shall be used for water conservation projects outside of the District boundaries.

- (6) As an alternative to subsection d(4), a developer or developers may chose to fund a water conservation program for public parks, school grounds or other public facilities in the Nipomo Mesa Water Conservation Area. The program to be funded will have been prepared by a California-licensed landscape architect for either the County Parks Department, the Lucia Mar School District or another public entity, as applicable. The program shall be reviewed and approved by the Planning Director and the owner of the public facility, and shall identify water savings and associated costs of conservation measures such as irrigation system replacement and/or repairs, installation of "smart controllers," removal of turf, replacement of high water using landscape material and amendmets to soils. The water conservation program shall clearly identify the expected water savings from implementation of the program. Each contribution of \$1,500 to the applicable public entity for the water conservation program will satisfy the requirement to retrofit plumbing fixtures in **five (5)** existing structures prior to issuance of a construction permit for each new structure, in accordance with subsection d(3).

SECTION 3. The project qualifies for a Categorical Exemption (Class 7) pursuant to CEQA Guidelines Section 15307 because the actions proposed will assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

SECTION 4. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 23 day of Sept., 2008, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 21st day of October, 2008, by the following roll call vote, to wit:

AYES: Supervisors K.H. 'Katcho' Achadjian, Harry L. Ovitt, Jerry Lenthall,
Chairperson James R. Patterson

NOES: Supervisor Bruce S. Gibson

ABSENT: None

ABSTAINING: None

JAMES R. PATTERSON
Chairman of the Board of Supervisors,

County of San Luis Obispo,
State of California

ATTEST:

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California
BY: CMCHRISTENSEN Deputy Clerk
[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN
County Counsel

By: _____

Deputy County Counsel

Dated: _____

10.6.08

EXHIBIT 2007-0006:B: FINDINGS

Environmental Determination

- A. The Environmental Coordinator has approved a Categorical Exemption for this proposal (Section 15307, Class 7). The proposed Building and Construction Ordinance amendment constitutes an action to assure the maintenance, restoration or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

Amendment

- B. The proposed amendment to the Building and Construction Ordinance will limit the extraction of groundwater and expand the application of low water-use requirements.
- C. The proposed amendment to the Building and Construction Ordinance will require new development in the Nipomo Mesa Water Conservation Area (NMWCA) to retrofit existing development or pay an in-lieu fee to fund water conservation programs in the NMWCA.
- D. The proposed amendment is consistent with the Land Use Element and Local Coastal Program and other adopted elements of the general plan because the proposed requirements are consistent with the general goals of the Land Use Element to avoid the use of public resources, services and facilities beyond their renewable capacities, and to monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels.
- E. The proposed amendment will protect the public health, safety and welfare of the area residents by reducing water extractions from the groundwater basin by requiring new development to offset their new use of water by retrofitting existing homes and businesses with low water consumption plumbing fixtures, by requiring new development, remodels and additions to use low water consumption plumbing fixtures and to allow for an in-lieu fee to be used to fund water conservation in the NMWCA.